

U.S. Sentencing Commission Special Post-Booker Coding Project



Information for All Cases

Cases Sentenced Subsequent to *U.S. v. Booker*
(Data Extraction as of March 16, 2006)

Prepared: March 30, 2006



U.S. SENTENCING COMMISSION
SPECIAL POST-BOOKER CODING PROJECT
DATA EXTRACTION DATE: MARCH 16, 2006

CONTENTS

	page
NATIONAL DATA	
Comparison of Sentence Imposed And Position Relative to the Post-Booker Guideline Range	1
Most Frequently Applied Guidelines: Comparison of Sentence Imposed And Position Relative to the Guideline Range	2
Offenders Sentenced for Each Chapter Two Guideline	3
CIRCUIT AND DISTRICT DATA	
Guideline Offenders in Each Circuit and District	5
Guideline Application Trends: National and Circuit	7
SENTENCE LENGTHS – MOST FREQUENTLY APPLIED GUIDELINES	
Distribution of Offenders Receiving Sentencing Options	12
Average and Median Sentence Imposed: Fiscal Years 2000-2001	13
Average and Median Sentence Imposed: Fiscal Years 2002-2003	14
Average and Median Sentence Imposed: Pre-Blakely 2004 and Post-Booker ..	15

DEGREE OF DEPARTURE AND VARIANCE

Departure and Variance Rate by Each Circuit and District	16
Substantial Assistance Departures in Each Primary Offense Category	19
Govt Sponsored Downward Departures in Each Primary Offense Category ..	20
Other Downward Departures in Each Primary Offense Category	21
Otherwise Below Guideline Range in Each Primary Offense Category	22
Upward Departures in Each Primary Offense Category	23
Otherwise Above Guideline Range in Each Primary Offense Category .	24

NATIONAL COMPARISON OF SENTENCE IMPOSED AND POSITION RELATIVE TO THE GUIDELINE RANGE

Cases Sentenced Subsequent to *U.S. v. Booker* with Data Available to USSC on March 16, 2006

	N	%
TOTAL¹	74,245	100.0
WITHIN GUIDELINE RANGE	45,829	61.7
DEPARTURE ABOVE GUIDELINE RANGE	221	0.3
Upward Departure from the Guideline Range ²	164	0.2
Upward Departure with <i>Booker</i> /18 U.S.C. § 3553 ³	57	0.1
OTHERWISE ABOVE THE GUIDELINE RANGE	1,006	1.4
Above the Range with <i>Booker</i> /18 U.S.C. § 3553 ⁴	522	0.7
All Remaining Cases Above the Guideline Range ⁵	484	0.7
GOVERNMENT SPONSORED BELOW RANGE	17,861	24.1
§5K1.1 Substantial Assistance Departure	10,778	14.5
§5K3.1 Early Disposition Program Departure	5,016	6.8
Government-Sponsored Departure ⁶	2,067	2.8
DEPARTURE BELOW GUIDELINE RANGE	2,399	3.2
Downward Departure from the Guideline Range ²	1,658	2.2
Downward Departure with <i>Booker</i> /18 U.S.C. § 3553 ³	741	1.0
OTHERWISE BELOW THE GUIDELINE RANGE	6,929	9.3
Below the Range with <i>Booker</i> /18 U.S.C. § 3553 ⁴	4,544	6.1
All Remaining Cases Below the Guideline Range ⁵	2,385	3.2

¹This table reflects the 76,867 cases sentenced subsequent to the *U.S. v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by March 16, 2006. Of this total, there are 2,622 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

²All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*.

³All cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*, and additionally mentioning either *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range.

⁴All cases with imposed sentences outside of the guideline range mentioning only *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range.

⁵Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to *Booker*/18 U.S.C. § 3553. This category includes cases which cite departure reasons that are not affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and cases which do not provide any reason for the sentence outside of the guideline range.

⁶Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-*Booker* Coding Project, (data extraction on March 16, 2006; table prepared on March 30, 2006). Summary numbers may not add up to their component parts due to rounding.

MOST FREQUENTLY APPLIED GUIDELINES: COMPARISON OF SENTENCE IMPOSED AND POSITION RELATIVE TO THE GUIDELINE RANGE

Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on March 16, 2006

	Four Most Frequently Applied Primary Guidelines									
	All Cases		§2D1.1 Drug Trafficking		§2L1.2 Unlawful Entry		§2K2.1 Firearms		§2B1.1 Theft and Fraud	
	N	%	N	%	N	%	N	%	N	%
TOTAL¹	74,245	100.0	25,662	100.0	11,575	100.0	7,247	100.0	7,647	100.0
WITHIN GUIDELINE RANGE	45,829	61.7	13,709	53.4	6,693	57.8	5,070	70.0	5,380	70.4
DEPARTURE ABOVE GUIDELINE	221	0.3	19	0.1	20	0.2	33	0.5	24	0.3
Upward Departure from the Guideline Range ²	164	0.2	15	0.1	14	0.1	25	0.3	15	0.2
Upward Departure with Booker/18 USC §3553 ³	57	0.1	4	0.0	6	0.1	8	0.1	9	0.1
OTHERWISE ABOVE THE RANGE	1,006	1.4	137	0.5	101	0.9	157	2.2	199	2.6
Above the Range with Booker/18 USC §3553 ⁴	522	0.7	64	0.2	62	0.5	78	1.1	110	1.4
All Remaining Cases Above the Guideline Range ⁵	484	0.7	73	0.3	39	0.3	79	1.1	89	1.2
GOVERNMENT BELOW GUIDELINE	17,861	24.1	8,569	33.4	3,647	31.5	896	12.4	940	12.3
§5K1.1 Substantial Assistance Departure	10,778	14.5	6,704	26.1	88	0.8	684	9.4	802	10.5
§5K3.1 Early Disposition Program Departure	5,016	6.8	1,147	4.5	3,181	27.5	37	0.5	12	0.2
Government-Sponsored Departure ⁶	2,067	2.8	718	2.8	378	3.3	175	2.4	126	1.6
DEPARTURE BELOW GUIDELINE	2,399	3.2	796	3.1	372	3.2	293	4.0	261	3.4
Downward Departure from the Guideline Range ²	1,658	2.2	547	2.1	286	2.5	189	2.6	176	2.3
Downward Departure with Booker/18 USC §3553 ³	741	1.0	249	1.0	86	0.7	104	1.4	85	1.1
OTHERWISE BELOW THE RANGE	6,929	9.3	2,432	9.5	742	6.4	798	11.0	843	11.0
Below the Range with Booker/18 USC §3553 ⁴	4,544	6.1	1,657	6.5	472	4.1	540	7.4	505	6.6
All Remaining Cases Below the Guideline Range ⁵	2,385	3.2	775	3.0	270	2.3	258	3.6	338	4.4

¹This table reflects the 76,867 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by March 16, 2006. Of this total, there are 2,622 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

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⁴All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

⁵Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and cases which do not provide any reason for the sentence outside of the guideline range.

⁶Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, (data extraction on March 16, 2006; table prepared on March 30, 2006). Cases with multiple guideline calculations are classified by the guideline with the highest offense level. Summary numbers may not add up to their component parts due to rounding.

OFFENDERS SENTENCED FOR EACH CHAPTER TWO GUIDELINE¹
Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on March 16, 2006

Guideline	As Primary Guideline		As Any Guideline		Guideline	As Primary Guideline		As Any Guideline	
	n	%	n	%		n	%	n	%
2A1.1	177	0.2	188	0.2	2D1.7	15	0.0	17	0.0
2A1.2	37	0.1	43	0.1	2D1.8	67	0.1	108	0.1
2A1.3	24	0.0	24	0.0	2D1.9	0	0.0	0	0.0
2A1.4	36	0.1	38	0.0	2D1.10	25	0.0	25	0.0
2A1.5	21	0.0	43	0.1	2D1.11	187	0.3	213	0.3
2A2.1	60	0.1	89	0.1	2D1.12	37	0.1	52	0.1
2A2.2	388	0.5	441	0.6	2D1.13	1	0.0	1	0.0
2A2.3	42	0.1	47	0.1	2D2.1	411	0.6	508	0.7
2A2.4	152	0.2	173	0.2	2D2.2	46	0.1	58	0.1
2A3.1	159	0.2	166	0.2	2D2.3	1	0.0	1	0.0
2A3.2	146	0.2	170	0.2	2D3.1	3	0.0	3	0.0
2A3.3	6	0.0	6	0.0	2D3.2	0	0.0	0	0.0
2A3.4	35	0.0	49	0.1	2D3.3	0	0.0	0	0.0
2A4.1	66	0.1	87	0.1	2D3.4	0	0.0	0	0.0
2A4.2	1	0.0	1	0.0	2D3.5	0	0.0	0	0.0
2A5.1	0	0.0	0	0.0	2E1.1	36	0.1	116	0.1
2A5.2	17	0.0	18	0.0	2E1.2	17	0.0	88	0.1
2A5.3	0	0.0	0	0.0	2E1.3	0	0.0	30	0.0
2A6.1	174	0.2	183	0.2	2E1.4	13	0.0	19	0.0
2A6.2	7	0.0	15	0.0	2E1.5	0	0.0	0	0.0
2B1.1	7,811	11.0	8,500	11.0	2E2.1	29	0.0	37	0.0
2B1.2	0	0.0	0	0.0	2E3.1	122	0.2	144	0.2
2B1.3	6	0.0	6	0.0	2E3.2	0	0.0	0	0.0
2B1.4	10	0.0	10	0.0	2E3.3	0	0.0	0	0.0
2B1.5	17	0.0	18	0.0	2E4.1	26	0.0	35	0.0
2B2.1	73	0.1	86	0.1	2E5.1	12	0.0	16	0.0
2B2.2	0	0.0	0	0.0	2E5.2	0	0.0	0	0.0
2B2.3	4	0.0	5	0.0	2E5.3	3	0.0	9	0.0
2B3.1	1,999	2.8	2,138	2.8	2E5.4	0	0.0	0	0.0
2B3.2	54	0.1	81	0.1	2E5.5	0	0.0	0	0.0
2B3.3	15	0.0	21	0.0	2E5.6	0	0.0	0	0.0
2B4.1	58	0.1	62	0.1	2F1.1	1,266	1.8	1,339	1.7
2B5.1	600	0.8	639	0.8	2F1.2	7	0.0	8	0.0
2B5.2	0	0.0	0	0.0	2G1.1	67	0.1	119	0.2
2B5.3	155	0.2	167	0.2	2G1.2	1	0.0	1	0.0
2B5.4	0	0.0	0	0.0	2G1.3	91	0.1	100	0.1
2B6.1	14	0.0	16	0.0	2G2.1	109	0.2	127	0.2
2C1.1	238	0.3	267	0.3	2G2.2	602	0.8	623	0.8
2C1.2	27	0.0	27	0.0	2G2.3	0	0.0	0	0.0
2C1.3	12	0.0	12	0.0	2G2.4	428	0.6	471	0.6
2C1.4	2	0.0	2	0.0	2G2.5	1	0.0	1	0.0
2C1.5	0	0.0	0	0.0	2G3.1	14	0.0	19	0.0
2C1.6	1	0.0	1	0.0	2G3.2	0	0.0	0	0.0
2C1.7	38	0.1	45	0.1	2H1.1	52	0.1	57	0.1
2C1.8	5	0.0	6	0.0	2H1.2	0	0.0	0	0.0
2D1.1	26,129	36.6	27,410	35.4	2H1.3	0	0.0	0	0.0
2D1.2	381	0.5	396	0.5	2H1.4	0	0.0	0	0.0
2D1.3	0	0.0	0	0.0	2H1.5	0	0.0	0	0.0
2D1.4	0	0.0	0	0.0	2H2.1	18	0.0	20	0.0
2D1.5	24	0.0	29	0.0	2H3.1	11	0.0	14	0.0
2D1.6	42	0.1	196	0.3	2H3.2	3	0.0	3	0.0

(continued)

Guideline	As Primary Guideline		As Any Guideline		Guideline	As Primary Guideline		As Any Guideline	
	n	%	n	%		n	%	n	%
2H3.3	12	0.0	16	0.0	2M4.1	0	0.0	0	0.0
2H4.1	10	0.0	10	0.0	2M5.1	11	0.0	15	0.0
2H4.2	0	0.0	0	0.0	2M5.2	28	0.0	31	0.0
2J1.1	0	0.0	29	0.0	2M5.3	7	0.0	9	0.0
2J1.2	135	0.2	187	0.2	2M6.1	14	0.0	14	0.0
2J1.3	69	0.1	100	0.1	2M6.2	1	0.0	1	0.0
2J1.4	16	0.0	31	0.0	2N1.1	2	0.0	2	0.0
2J1.5	2	0.0	2	0.0	2N1.2	2	0.0	2	0.0
2J1.6	61	0.1	80	0.1	2N1.3	0	0.0	0	0.0
2J1.7	147	0.2	156	0.2	2N2.1	34	0.0	63	0.1
2J1.8	0	0.0	0	0.0	2N3.1	1	0.0	3	0.0
2J1.9	0	0.0	0	0.0	2P1.1	238	0.3	264	0.3
2K1.1	4	0.0	5	0.0	2P1.2	92	0.1	117	0.2
2K1.2	0	0.0	0	0.0	2P1.3	14	0.0	14	0.0
2K1.3	49	0.1	52	0.1	2P1.4	0	0.0	0	0.0
2K1.4	67	0.1	90	0.1	2Q1.1	0	0.0	0	0.0
2K1.5	13	0.0	14	0.0	2Q1.2	55	0.1	57	0.1
2K1.6	1	0.0	1	0.0	2Q1.3	43	0.1	43	0.1
2K1.7	0	0.0	0	0.0	2Q1.4	0	0.0	0	0.0
2K2.1	7,304	10.2	7,737	10.0	2Q1.5	0	0.0	0	0.0
2K2.2	0	0.0	0	0.0	2Q1.6	0	0.0	0	0.0
2K2.3	0	0.0	0	0.0	2Q2.1	113	0.2	116	0.1
2K2.4	1	0.0	2	0.0	2Q2.2	0	0.0	0	0.0
2K2.5	14	0.0	16	0.0	2R1.1	18	0.0	20	0.0
2K2.6	2	0.0	4	0.0	2S1.1	1,101	1.5	1,196	1.5
2K3.1	0	0.0	0	0.0	2S1.2	26	0.0	32	0.0
2L1.1	3,518	4.9	3,608	4.7	2S1.3	296	0.4	329	0.4
2L1.2	11,702	16.4	11,850	15.3	2S1.4	0	0.0	0	0.0
2L1.3	0	0.0	0	0.0	2T1.1	554	0.8	676	0.9
2L2.1	412	0.6	445	0.6	2T1.2	0	0.0	0	0.0
2L2.2	1,121	1.6	1,184	1.5	2T1.3	1	0.0	1	0.0
2L2.3	0	0.0	0	0.0	2T1.4	134	0.2	147	0.2
2L2.4	0	0.0	0	0.0	2T1.5	0	0.0	0	0.0
2L2.5	0	0.0	0	0.0	2T1.6	16	0.0	18	0.0
2M1.1	0	0.0	1	0.0	2T1.7	0	0.0	0	0.0
2M2.1	0	0.0	0	0.0	2T1.8	0	0.0	0	0.0
2M2.2	0	0.0	0	0.0	2T1.9	26	0.0	39	0.1
2M2.3	0	0.0	0	0.0	2T2.1	0	0.0	1	0.0
2M2.4	0	0.0	0	0.0	2T2.2	0	0.0	0	0.0
2M3.1	0	0.0	0	0.0	2T3.1	37	0.1	42	0.1
2M3.2	1	0.0	1	0.0	2T3.2	0	0.0	0	0.0
2M3.3	1	0.0	2	0.0	2T4.1	0	0.0	0	0.0
2M3.4	0	0.0	0	0.0	2X1.1	152	0.2	1,443	1.9
2M3.5	0	0.0	0	0.0	2X2.1	0	0.0	53	0.1
2M3.6	0	0.0	0	0.0	2X3.1	123	0.2	143	0.2
2M3.7	0	0.0	0	0.0	2X4.1	511	0.7	523	0.7
2M3.8	0	0.0	0	0.0	2X5.1	0	0.0	53	0.1
2M3.9	0	0.0	0	0.0					
					Total number of guidelines applied:				
					77,393				
					Number of cases with at least one guideline applied:				
					71,296				

¹Of the 76,867 cases, 5,571 were excluded due to missing guideline applied. The total for any guideline can exceed that for primary guideline because a case can have several guidelines applied, but only one primary guideline.

GUIDELINE OFFENDERS IN EACH CIRCUIT AND DISTRICT¹

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on March 16, 2006

CIRCUIT			CIRCUIT		
District	Number	Percent	District	Number	Percent
TOTAL	76,867	100.0			
D.C. CIRCUIT	553	0.7	FIFTH CIRCUIT	16,750	21.8
District of Columbia	553	0.7	Louisiana		
			Eastern	392	0.5
			Middle	205	0.3
			Western	433	0.6
FIRST CIRCUIT	1,749	2.3	Mississippi		
Maine	262	0.3	Northern	205	0.3
Massachusetts	525	0.7	Southern	366	0.5
New Hampshire	219	0.3	Texas		
Puerto Rico	593	0.8	Eastern	821	1.1
Rhode Island	150	0.2	Northern	1,090	1.4
			Southern	7,221	9.4
			Western	6,017	7.8
SECOND CIRCUIT	4,416	5.7			
Connecticut	442	0.6	SIXTH CIRCUIT	5,796	7.5
New York			Kentucky		
Eastern	1,258	1.6	Eastern	577	0.8
Northern	411	0.5	Western	415	0.5
Southern	1,426	1.9	Michigan		
Western	659	0.9	Eastern	805	1.0
Vermont	220	0.3	Western	449	0.6
			Ohio		
THIRD CIRCUIT	3,515	4.6	Northern	1,148	1.5
Delaware	173	0.2	Southern	695	0.9
New Jersey	1,013	1.3	Tennessee		
Pennsylvania			Eastern	708	0.9
Eastern	1,075	1.4	Middle	353	0.5
Middle	655	0.9	Western	646	0.8
Western	479	0.6			
Virgin Islands	120	0.2	SEVENTH CIRCUIT	3,356	4.4
			Illinois		
FOURTH CIRCUIT	6,995	9.1	Central	409	0.5
Maryland	800	1.0	Northern	1,186	1.5
North Carolina			Southern	335	0.4
Eastern	702	0.9	Indiana		
Middle	473	0.6	Northern	463	0.6
Western	659	0.9	Southern	323	0.4
South Carolina	1,129	1.5	Wisconsin		
Virginia			Eastern	422	0.5
Eastern	1,831	2.4	Western	218	0.3
Western	684	0.9			
West Virginia					
Northern	362	0.5			
Southern	355	0.5			

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CIRCUIT			CIRCUIT		
District	Number	Percent	District	Number	Percent
EIGHTH CIRCUIT	5,522	7.2	TENTH CIRCUIT	6,313	8.2
Arkansas			Colorado	747	1.0
Eastern	305	0.4	Kansas	710	0.9
Western	233	0.3	New Mexico	2,896	3.8
Iowa			Oklahoma		
Northern	400	0.5	Eastern	108	0.1
Southern	362	0.5	Northern	229	0.3
Minnesota	631	0.8	Western	334	0.4
Missouri			Utah	1,053	1.4
Eastern	1,074	1.4	Wyoming	236	0.3
Western	872	1.1			
Nebraska	907	1.2	ELEVENTH CIRCUIT	7,382	9.6
North Dakota	267	0.3	Alabama		
South Dakota	471	0.6	Middle	248	0.3
			Northern	497	0.6
NINTH CIRCUIT	14,520	18.9	Southern	387	0.5
Alaska	223	0.3	Florida		
Arizona	4,497	5.9	Middle	1,826	2.4
California			Northern	374	0.5
Central	1,709	2.2	Southern	2,368	3.1
Eastern	977	1.3	Georgia		
Northern	711	0.9	Middle	490	0.6
Southern	2,646	3.4	Northern	798	1.0
Guam	136	0.2	Southern	394	0.5
Hawaii	529	0.7			
Idaho	267	0.3			
Montana	407	0.5			
Nevada	484	0.6			
Northern Mariana Islands	26	0.0			
Oregon	599	0.8			
Washington					
Eastern	409	0.5			
Western	900	1.2			

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extracted March 16, 2006; table prepared March 31, 2006). Summary numbers may add up to their component parts due to rounding.

Guideline Application Trends, National and Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06¹
(Post-Booker data extracted March 16, 2006)

NATIONAL

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	64.0%	65.0%	69.4%	72.2%	61.7%
Upward Departures	0.6%	0.8%	0.8%	0.8%	0.3% ²
Otherwise Above Range	—	—	—	—	1.4% ³
Substantial Assistance Departures	17.1%	17.4%	15.9%	15.5%	14.5%
Other Gov't Sponsored Departures	—	—	6.3% ⁴	6.4%	9.5% ⁴
Other Downward Departures	18.3% ⁵	16.8% ⁵	7.5%	5.2%	3.2% ²
Otherwise Below Range	—	—	—	—	9.3% ³

DC CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	74.6%	59.9%	64.6%	59.2%	52.6%
Upward Departures	0.4%	0.5%	0.2%	1.0%	0.2% ²
Otherwise Above Range	—	—	—	—	2.4% ³
Substantial Assistance Departures	13.8%	31.1%	26.4%	31.3%	23.0%
Other Gov't Sponsored Departures	—	—	4.4% ⁴	3.9%	9.0% ⁴
Other Downward Departures	11.2% ⁵	8.5% ⁵	4.4%	4.7%	2.8% ²
Otherwise Below Range	—	—	—	—	10.1% ³

FIRST CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	73.3%	75.7%	77.3%	79.6%	65.1%
Upward Departures	0.4%	0.6%	0.7%	0.9%	0.4% ²
Otherwise Above Range	—	—	—	—	2.2% ³
Substantial Assistance Departures	14.6%	14.4%	13.5%	13.8%	12.1%
Other Gov't Sponsored Departures	—	—	0.7% ⁴	0.5%	2.5% ⁴
Other Downward Departures	11.7% ⁵	9.3% ⁵	7.8%	5.2%	4.2% ²
Otherwise Below Range	—	—	—	—	13.6% ³

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Guideline Application Trends, National and Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06¹

SECOND CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	57.5%	61.3%	63.2%	63.8%	49.8%
Upward Departures	0.4%	0.6%	0.5%	0.9%	0.2% ²
Otherwise Above Range	—	—	—	—	1.0% ³
Substantial Assistance Departures	21.7%	19.0%	17.5%	19.2%	22.5%
Other Gov't Sponsored Departures	—	—	2.8% ⁴	2.5%	2.9% ⁴
Other Downward Departures	20.4% ⁵	19.1% ⁵	16.0%	13.6%	6.8% ²
Otherwise Below Range	—	—	—	—	16.9% ³

THIRD CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	60.2%	58.9%	62.3%	62.6%	51.3%
Upward Departures	0.5%	0.9%	0.9%	0.6%	0.2% ²
Otherwise Above Range	—	—	—	—	1.2% ³
Substantial Assistance Departures	30.6%	32.3%	28.8%	30.3%	27.9%
Other Gov't Sponsored Departures	—	—	0.6% ⁴	0.8%	1.8% ⁴
Other Downward Departures	8.8% ⁵	7.9% ⁵	7.4%	5.8%	4.0% ²
Otherwise Below Range	—	—	—	—	13.6% ³

FOURTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	73.7%	76.6%	77.0%	79.0%	67.0%
Upward Departures	0.9%	0.7%	0.6%	1.0%	0.3% ²
Otherwise Above Range	—	—	—	—	1.4% ³
Substantial Assistance Departures	20.2%	18.6%	18.3%	16.7%	17.7%
Other Gov't Sponsored Departures	—	—	0.3% ⁴	0.3%	1.3% ⁴
Other Downward Departures	5.2% ⁵	4.2% ⁵	3.8%	3.0%	2.5% ²
Otherwise Below Range	—	—	—	—	9.8% ³

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Guideline Application, National and Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06¹

FIFTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	69.1%	71.0%	73.7%	80.2%	72.0%
Upward Departures	0.5%	0.9%	0.9%	0.8%	0.2% ²
Otherwise Above Range	—	—	—	—	1.6% ³
Substantial Assistance Departures	12.3%	13.4%	12.5%	10.3%	7.9%
Other Gov't Sponsored Departures	—	—	5.4% ⁴	5.2%	9.8% ⁴
Other Downward Departures	18.1% ⁵	14.7% ⁵	7.5%	3.5%	2.5% ²
Otherwise Below Range	—	—	—	—	6.0% ³

SIXTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	65.1%	66.9%	69.1%	69.7%	57.6%
Upward Departures	0.5%	0.8%	0.4%	0.5%	0.1% ²
Otherwise Above Range	—	—	—	—	1.3% ³
Substantial Assistance Departures	27.2%	26.0%	24.6%	24.3%	25.2%
Other Gov't Sponsored Departures	—	—	0.5% ⁴	0.4%	1.8% ⁴
Other Downward Departures	7.3% ⁵	6.3% ⁵	5.3%	5.1%	2.9% ²
Otherwise Below Range	—	—	—	—	11.0% ³

SEVENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	71.0%	69.3%	72.5%	75.4%	63.9%
Upward Departures	1.0%	0.8%	1.0%	1.3%	0.3% ²
Otherwise Above Range	—	—	—	—	1.1% ³
Substantial Assistance Departures	21.2%	21.8%	21.2%	19.0%	16.8%
Other Gov't Sponsored Departures	—	—	0.8% ⁴	0.8%	2.7% ⁴
Other Downward Departures	6.9% ⁵	8.1% ⁵	4.5%	3.6%	3.5% ²
Otherwise Below Range	—	—	—	—	11.8% ³

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Guideline Application Trends By Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06¹

EIGHTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	66.8%	69.3%	72.2%	77.0%	64.5%
Upward Departures	0.7%	1.2%	1.1%	0.9%	0.3% ²
Otherwise Above Range	—	—	—	—	1.6% ³
Substantial Assistance Departures	22.0%	18.9%	17.6%	15.3%	14.4%
Other Gov't Sponsored Departures	—	—	2.0% ⁴	2.1%	4.1% ⁴
Other Downward Departures	10.5% ⁵	10.7% ⁵	7.1%	4.7%	3.3% ²
Otherwise Below Range	—	—	—	—	11.8% ³

NINTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	50.1%	48.8%	59.6%	61.8%	47.6%
Upward Departures	0.4%	0.7%	1.1%	0.8%	0.5% ²
Otherwise Above Range	—	—	—	—	1.1% ³
Substantial Assistance Departures	10.7%	11.8%	10.2%	10.6%	10.6%
Other Gov't Sponsored Departures	—	—	19.2% ⁴	20.4%	28.1% ⁴
Other Downward Departures	38.7% ⁵	38.7% ⁵	9.9%	6.5%	3.5% ²
Otherwise Below Range	—	—	—	—	8.6% ³

TENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	65.0%	66.6%	73.1%	73.9%	65.0%
Upward Departures	0.7%	0.6%	0.6%	0.7%	0.1% ²
Otherwise Above Range	—	—	—	—	0.9% ³
Substantial Assistance Departures	11.0%	11.0%	9.4%	10.3%	9.6%
Other Gov't Sponsored Departures	—	—	11.4% ⁴	10.7%	14.2% ⁴
Other Downward Departures	23.3% ⁵	21.9% ⁵	5.5%	4.5%	3.1% ²
Otherwise Below Range	—	—	—	—	7.1% ³

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Guideline Application Trends By Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06¹

ELEVENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	72.1%	70.2%	74.5%	74.7%	68.8%
Upward Departures	0.6%	0.7%	0.8%	0.8%	0.4% ²
Otherwise Above Range	—	—	—	—	1.6% ³
Substantial Assistance Departures	19.9%	22.4%	19.9%	21.0%	17.9%
Other Gov't Sponsored Departures	—	—	0.3% ⁴	0.2%	1.0% ⁴
Other Downward Departures	7.5% ⁵	6.7% ⁵	4.5%	3.3%	2.6% ²
Otherwise Below Range	—	—	—	—	7.8% ³

¹In 2003, the Commission augmented its data coding procedures to determine the proportion of non-substantial assistance downward departures that were sponsored by the government. Data prior to 2003 does not distinguish non-substantial assistance government initiated downward departures from other downward departures. In this table, data from FY2001 and 2002 on “Other Downward Departures” combines both government sponsored and non-government sponsored downward departures. For FY2003 and FY2004, the “Other Downward Departures” data distinguishes departures that were sponsored by the government from those not sponsored by the government. For example, using the national data, 6.3% of downward departures were government sponsored and 7.5% were other downward departures; the combination of these values (13.8%) is directly comparable to the data for “Other Downward Departures” from the preceding years. For FY2004, this table reflects only cases sentenced prior to the *Blakely v. Washington* decision on June 24, 2004. For FY2005-06, this table reflects cases sentenced subsequent to the *U.S. v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by March 16, 2006. In these cases, a further distinction is made among below guideline range sentences. The data report three categories of below range sentences: those sponsored by the government; those not sponsored by the government and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*; and those mentioning only *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range. Cases citing both reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and mentioning *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors are included in the “Other Downward Departures” category.

²Includes cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and all cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*, and additionally mentioning either *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range.

³Includes cases with imposed sentences outside of the guideline range mentioning only *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range and all cases with imposed sentences outside of the guideline range that do not fall into the previous category. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and cases which do not provide any reason for the sentence outside of the guideline range.

⁴Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant. Note that §5K3.1 (Early Disposition Program) cases are included in this category.

⁵Includes cases in which the below range sentence was sponsored by the government and those not sponsored by the government. Prior to FY2003, the Commission did not code this distinction.

SOURCE: U.S. Sentencing Commission *Sourcebook of Federal Sentencing*, FY2001 through FY2003, Table 26; U.S. Sentencing Commission 2004 Fiscal Year Data File, USSCFY04, Pre-Blakely Only Cases (October 1, 2003 through June 24, 2004); Special Post-Booker Coding Project, (data extracted March 16, 2006; table prepared March 30, 2006). Percents may not sum to 100 percent due to rounding.

Distribution of Offenders Receiving Sentencing Options for the Most Frequently Applied Guidelines
FY 2000-2003, Pre-Blakely FY 2004, and Post-Booker FY 2005-2006 (data extracted March 16, 2006)

	FY 2000		FY 2001		FY 2002		FY 2003		Pre-Blakely FY 2004		Post-Booker FY2005-06	
	N	%	N	%	N	%	N	%	N	%	N	%
Drug Trafficking §2D1.1¹	21,715	100.0	22,608	100.0	24,013	100.0	23,833	100.0	16,955	100.0	25,601	100.0
Prison only ²	20,422	94.0	21,143	93.5	22,407	93.3	22,455	94.2	16,081	94.9	24,223	94.6
Prison plus confinement conditions ³	430	2.0	469	2.1	515	2.1	402	1.7	337	2.0	548	2.1
Probation plus confinement conditions ⁴	379	1.7	488	2.2	465	1.9	469	2.0	227	1.3	360	1.4
Probation only ⁵	484	2.2	508	2.2	626	2.6	507	2.1	310	1.8	470	1.8
Immigration Unlawful Entry §2L1.2¹	6,341	100.0	5,946	100.0	6,993	100.0	9,167	100.0	7,058	100.0	11,613	100.0
Prison only ²	6,291	99.2	5,901	99.2	6,952	99.4	9,132	99.6	7,032	99.6	11,533	99.3
Prison plus confinement conditions ³	10	0.2	14	0.2	7	0.1	11	0.1	10	0.1	24	0.2
Probation plus confinement conditions ⁴	1	0.0	1	0.0	0	0.0	2	0.0	0	0.0	2	0.0
Probation only ⁵	39	0.6	30	0.5	34	0.5	22	0.2	16	0.2	54	0.5
Firearms §2K2.1¹	2,997	100.0	3,629	100.0	4,173	100.0	5,425	100.0	4,782	100.0	7,057	100.0
Prison only ²	2,604	86.9	3,177	87.5	3,680	88.2	4,779	88.1	4,292	89.8	6,329	89.7
Prison plus confinement conditions ³	104	3.5	141	3.9	158	3.8	174	3.2	128	2.7	218	3.1
Probation plus confinement conditions ⁴	147	4.9	155	4.3	139	3.3	224	4.1	160	3.4	260	3.7
Probation only ⁵	142	4.7	156	4.3	196	4.7	248	4.6	202	4.2	250	3.5
Theft/Fraud §2B1.1 or §2F1.1¹	9,015	100.0	8,768	100.0	9,243	100.0	9,606	100.0	6,909	100.0	8,782	100.0
Prison only ²	4,253	47.2	4,339	49.5	4,531	49.0	4,803	50.0	3,574	51.7	4,724	53.8
Prison plus confinement conditions ³	1,077	11.9	1,053	12.0	959	10.4	840	8.7	629	9.1	808	9.2
Probation plus confinement conditions ⁴	1,540	17.1	1,481	16.9	1,421	15.4	1,463	15.2	997	14.4	1,153	13.1
Probation only ⁵	2,145	23.8	1,895	21.6	2,332	25.2	2,500	26.0	1,709	24.7	2,097	23.9

¹Sections report only cases with one single guideline application using the indicated guideline. Cases receiving only monetary sentences are excluded.

²Prison only cases receive straight prison time.

³Prison plus confinement cases receive a combination of prison time and alternative confinement time as defined in USSG §5C1.1.

⁴Probation plus confinement cases receive, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

⁵Probation only cases receive straight probation time.

SOURCE: U.S. Sentencing Commission, 2000-2003 Fiscal Year Datafiles, USSCFY00-USSCFY03; 2004 Fiscal Year Datafile, USSCFY04, Pre-Blakely Only Cases (October 1, 2003 through June 24, 2004); Special Post-Booker Coding Project (data extraction on March 16, 2006; table prepared March 30, 2006). Numbers may not sum to 100 percent due to rounding.

Average and Median Sentence Imposed¹ for the Most Frequently Applied Guidelines

Fiscal Year 2000 and Fiscal Year 2001

	Fiscal Year 2000				Fiscal Year 2001			
	Average Months	Median Months	GL Median ²	N	Average Months	Median Months	GL Median ²	N
All Cases (one guideline computation)³	50	30		51,342	50	30		51,809
Drug Trafficking §2D1.1⁴	72	50	60	21,715	70	48	60	22,608
Prison only ⁵	74	57	63	20,422	72	51	60	21,143
Prison plus confinement conditions ⁶	21	10	21	430	29	10	18	469
Probation plus confinement conditions ⁷	6	6	12	379	6	6	12	488
Probation only ⁸	0	0	—	484	0	0	—	508
Immigration Unlawful Entry §2L1.2⁴	36	33	46	6,341	35	30	46	5,946
Prison only ⁵	36	33	33	6,291	35	30	46	5,901
Prison plus confinement conditions ⁶	21	10	10	10	20	10	12	14
Probation plus confinement conditions ⁷	—	—	—	1	—	—	—	1
Probation only ⁸	0	0	—	39	0	0	—	30
Firearms §2K2.1⁴	53	37	37	2,997	52	37	37	3,629
Prison only ⁵	57	37	41	2,604	56	40	41	3,177
Prison plus confinement conditions ⁶	23	10	12	104	22	10	15	141
Probation plus confinement conditions ⁷	7	6	12	147	6	6	12	155
Probation only ⁸	0	0	—	142	0	0	—	156
Theft/Fraud §2B1.1 or §2F1.1⁴	14	10	10	9,015	15	10	12	8,768
Prison only ⁵	19	15	15	4,253	20	15	15	4,339
Prison plus confinement conditions ⁶	9	8	8	1,077	9	8	8	1,053
Probation plus confinement conditions ⁷	5	6	6	1,540	5	6	6	1,481
Probation only ⁸	0	0	—	2,145	0	0	—	1,895

¹Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

²For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

³All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The “All Cases” row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

⁴Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

⁵Prison only sentence categories report straight prison time.

⁶Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

⁷Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

⁸Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

SOURCE: U.S. Sentencing Commission, 2000 and 2001 Fiscal Year Datafiles, USSCFY00 and USSCFY01.

Average and Median Sentence Imposed¹ for the Most Frequently Applied Guidelines

Fiscal Year 2002 and Fiscal Year 2003

	Fiscal Year 2002				Fiscal Year 2003			
	Average Months	Median Months	GL Median ²	N	Average Months	Median Months	GL Median ²	N
All Cases (one guideline computation)³	51	30		55,856	52	30		60,786
Drug Trafficking §2D1.1⁴	71	51	60	24,013	77	57	63	23,833
Prison only ⁵	74	57	57	22,407	79	60	70	22,455
Prison plus confinement conditions ⁶	22	10	10	515	20	10	15	402
Probation plus confinement conditions ⁷	6	6	6	465	6	6	12	469
Probation only ⁸	0	0	—	626	0	0	—	507
Immigration Unlawful Entry §2L1.2⁴	30	27	30	6,993	28	24	27	9,167
Prison only ⁵	30	27	30	6,952	28	24	27	9,132
Prison plus confinement conditions ⁶	20	10	10	7	22	10	10	11
Probation plus confinement conditions ⁷	—	—	—	0	—	—	—	2
Probation only ⁸	0	0	—	34	0	0	—	22
Firearms §2K2.1⁴	53	37	37	4,173	56	37	37	5,425
Prison only ⁵	57	37	37	3,680	59	41	41	4,779
Prison plus confinement conditions ⁶	18	10	12	158	21	10	12	174
Probation plus confinement conditions ⁷	6	6	12	139	6	6	12	224
Probation only ⁸	0	0	—	196	0	0	—	248
Theft/Fraud §2B1.1 or §2F1.1⁴	16	10	12	9,243	16	12	12	9,606
Prison only ⁵	20	15	15	4,531	21	16	18	4,803
Prison plus confinement conditions ⁶	9	10	10	959	9	10	10	840
Probation plus confinement conditions ⁷	6	6	6	1,421	6	6	6	1,463
Probation only ⁸	0	0	—	2,332	0	0	—	2,500

¹Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

²For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

³All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The “All Cases” row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

⁴Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

⁵Prison only sentence categories report straight prison time.

⁶Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

⁷Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

⁸Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

SOURCE: U.S. Sentencing Commission, 2002 and 2003 Fiscal Year Datafiles, USSCFY02 and USSCFY03.

Average and Median Sentence Imposed¹ for the Most Frequently Applied Guidelines

Pre-Blakely FY 2004 and Post-Booker FY 2005-2006 (data extracted March 16, 2006)

	Pre-Blakely FY 2004				Post-Booker FY2005-06			
	Average Months	Median Months	GL Median ²	N	Average Months	Median Months	GL Median ²	N
All Cases (one guideline computation)³	56	33		44,895	55	33		68,528
Drug Trafficking §2D1.1⁴	83	60	70	16,955	83	60	70	25,601
Prison only ⁵	86	60	70	16,081	86	63	78	24,223
Prison plus confinement conditions ⁶	22	10	12	337	18	10	21	548
Probation plus confinement conditions ⁷	6	6	12	227	6	6	12	360
Probation only ⁸	0	0	—	310	0	0	—	470
Immigration Unlawful Entry §2L1.2⁴	29	24	24	7,058	27	24	24	11,613
Prison only ⁵	29	24	24	7,032	27	24	24	11,533
Prison plus confinement conditions ⁶	40	34	29	10	17	10	15	24
Probation plus confinement conditions ⁷	—	—	—	0	—	—	—	2
Probation only ⁸	0	0	—	16	0	0	—	54
Firearms §2K2.1⁴	59	40	41	4,782	58	37	37	7,057
Prison only ⁵	63	42	46	4,292	61	41	41	6,329
Prison plus confinement conditions ⁶	21	10	10	128	25	10	12	218
Probation plus confinement conditions ⁷	6	6	10	160	7	6	12	260
Probation only ⁸	0	0	—	202	0	0	—	250
Theft/Fraud §2B1.1 or §2F1.1⁴	19	12	12	6,909	20	12	15	8,782
Prison only ⁵	25	18	18	3,574	26	18	21	4,724
Prison plus confinement conditions ⁶	9	10	10	629	10	10	10	808
Probation plus confinement conditions ⁷	6	6	6	997	6	6	6	1,153
Probation only ⁸	0	0	—	1,709	0	0	—	2,097

¹Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

²For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

³All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The “All Cases” row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

⁴Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

⁵Prison only sentence categories report straight prison time.

⁶Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

⁷Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

⁸Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

SOURCE: U.S. Sentencing Commission, 2004 Fiscal Year Datafile, USSCFY04 Pre-Blakely Only Cases (October 1, 2003 through June 24, 2004); Special Post-Booker Coding Project (data extraction on March 16, 2006; table prepared March 30, 2006).

POST-BOOKER DEPARTURE/VARIANCE RATE BY CIRCUIT AND DISTRICT¹
Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on March 16, 2006

CIRCUIT	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		GOVERNMENT SPONSORED BELOW THE GUIDELINE RANGE		DEPARTURES BELOW THE GUIDELINE RANGE		OTHERWISE BELOW THE GUIDELINE RANGE		DEPARTURES ABOVE THE GUIDELINE RANGE		OTHERWISE ABOVE THE GUIDELINE RANGE	
			%		%		%		%		%		%
District													
TOTAL	74,245	45,829	61.7	17,861	24.1	2,399	3.2	6,929	9.3	221	0.3	1,006	1.4
D.C. CIRCUIT	544	286	52.6	174	32.0	15	2.8	55	10.1	1	0.2	13	2.4
District of Columbia	544	286	52.6	174	32.0	15	2.8	55	10.1	1	0.2	13	2.4
FIRST CIRCUIT	1,705	1,110	65.1	249	14.6	72	4.2	231	13.5	6	0.4	37	2.2
Maine	258	187	72.5	54	20.9	6	2.3	9	3.5	0	0.0	2	0.8
Massachusetts	503	267	53.1	61	12.1	42	8.3	126	25.0	2	0.4	5	1.0
New Hampshire	219	118	53.9	75	34.2	8	3.7	10	4.6	1	0.5	7	3.2
Puerto Rico	580	442	76.2	51	8.8	12	2.1	54	9.3	2	0.3	19	3.3
Rhode Island	145	96	66.2	8	5.5	4	2.8	32	22.1	1	0.7	4	2.8
SECOND CIRCUIT	4,329	2,155	49.8	1,100	25.4	294	6.8	730	16.9	8	0.2	42	1.0
Connecticut	437	200	45.8	113	25.9	61	14.0	57	13.0	2	0.5	4	0.9
New York													
Eastern	1,255	457	36.4	364	29.0	119	9.5	288	22.9	3	0.2	24	1.9
Northern	406	223	54.9	123	30.3	21	5.2	36	8.9	0	0.0	3	0.7
Southern	1,376	819	59.5	208	15.1	69	5.0	273	19.8	1	0.1	6	0.4
Western	635	347	54.6	218	34.3	6	0.9	58	9.1	2	0.3	4	0.6
Vermont	220	109	49.5	74	33.6	18	8.2	18	8.2	0	0.0	1	0.5
THIRD CIRCUIT	3,459	1,776	51.3	1,028	29.7	137	4.0	469	13.6	7	0.2	42	1.2
Delaware	172	108	62.8	16	9.3	13	7.6	35	20.3	0	0.0	0	0.0
New Jersey	989	503	50.9	325	32.9	42	4.2	109	11.0	1	0.1	9	0.9
Pennsylvania													
Eastern	1,049	431	41.1	367	35.0	37	3.5	198	18.9	3	0.3	13	1.2
Middle	654	301	46.0	256	39.1	21	3.2	62	9.5	3	0.5	11	1.7
Western	476	330	69.3	59	12.4	23	4.8	55	11.6	0	0.0	9	1.9
Virgin Islands	119	103	86.6	5	4.2	1	0.8	10	8.4	0	0.0	0	0.0
FOURTH CIRCUIT	6,638	4,447	67.0	1,261	19.0	164	2.5	653	9.8	21	0.3	92	1.4
Maryland	767	378	49.3	235	30.6	40	5.2	100	13.0	3	0.4	11	1.4
North Carolina													
Eastern	696	383	55.0	245	35.2	14	2.0	47	6.8	2	0.3	5	0.7
Middle	472	350	74.2	63	13.3	9	1.9	46	9.7	0	0.0	4	0.8
Western	655	396	60.5	185	28.2	15	2.3	52	7.9	0	0.0	7	1.1
South Carolina	1,099	778	70.8	186	16.9	30	2.7	93	8.5	4	0.4	8	0.7
Virginia													
Eastern	1,562	1,179	75.5	106	6.8	27	1.7	207	13.3	6	0.4	37	2.4
Western	681	422	62.0	170	25.0	12	1.8	63	9.3	3	0.4	11	1.6
West Virginia													
Northern	358	291	81.3	33	9.2	8	2.2	23	6.4	0	0.0	3	0.8
Southern	348	270	77.6	38	10.9	9	2.6	22	6.3	3	0.9	6	1.7

CIRCUIT District	TOTAL	GOVERNMENT											
		SENTENCED WITHIN GUIDELINE RANGE	%	SPONSORED BELOW THE GUIDELINE RANGE	%	DEPARTURES BELOW THE GUIDELINE RANGE	%	OTHERWISE BELOW THE GUIDELINE RANGE	%	DEPARTURES ABOVE THE GUIDELINE RANGE	%	OTHERWISE ABOVE THE GUIDELINE RANGE	%
FIFTH CIRCUIT	16,643	11,982	72.0	2,941	17.7	419	2.5	996	6.0	39	0.2	266	1.6
Louisiana													
Eastern	389	291	74.8	53	13.6	9	2.3	22	5.7	4	1.0	10	2.6
Middle	205	131	63.9	49	23.9	2	1.0	10	4.9	2	1.0	11	5.4
Western	427	304	71.2	38	8.9	9	2.1	48	11.2	1	0.2	27	6.3
Mississippi													
Northern	205	122	59.5	63	30.7	2	1.0	6	2.9	2	1.0	10	4.9
Southern	355	289	81.4	33	9.3	8	2.3	17	4.8	0	0.0	8	2.3
Texas													
Eastern	820	652	79.5	96	11.7	20	2.4	36	4.4	1	0.1	15	1.8
Northern	1,087	805	74.1	130	12.0	17	1.6	77	7.1	3	0.3	55	5.1
Southern	7,203	4,685	65.0	1,764	24.5	243	3.4	442	6.1	18	0.2	51	0.7
Western	5,952	4,703	79.0	715	12.0	109	1.8	338	5.7	8	0.1	79	1.3
SIXTH CIRCUIT	5,653	3,256	57.6	1,528	27.0	165	2.9	623	11.0	8	0.1	73	1.3
Kentucky													
Eastern	561	267	47.6	238	42.4	5	0.9	36	6.4	0	0.0	15	2.7
Western	380	269	70.8	79	20.8	9	2.4	23	6.1	0	0.0	0	0.0
Michigan													
Eastern	801	416	51.9	248	31.0	31	3.9	95	11.9	1	0.1	10	1.2
Western	449	293	65.3	74	16.5	15	3.3	56	12.5	2	0.4	9	2.0
Ohio													
Northern	1,141	669	58.6	274	24.0	46	4.0	142	12.4	1	0.1	9	0.8
Southern	673	328	48.7	214	31.8	27	4.0	94	14.0	0	0.0	10	1.5
Tennessee													
Eastern	691	453	65.6	169	24.5	5	0.7	55	8.0	0	0.0	9	1.3
Middle	325	188	57.8	76	23.4	14	4.3	44	13.5	1	0.3	2	0.6
Western	632	373	59.0	156	24.7	13	2.1	78	12.3	3	0.5	9	1.4
SEVENTH CIRCUIT	3,320	2,120	63.9	645	19.4	117	3.5	391	11.8	10	0.3	37	1.1
Illinois													
Central	402	243	60.4	82	20.4	12	3.0	61	15.2	1	0.2	3	0.7
Northern	1,172	662	56.5	282	24.1	60	5.1	157	13.4	2	0.2	9	0.8
Southern	334	278	83.2	19	5.7	9	2.7	21	6.3	3	0.9	4	1.2
Indiana													
Northern	457	317	69.4	108	23.6	11	2.4	16	3.5	0	0.0	5	1.1
Southern	318	204	64.2	73	23.0	7	2.2	26	8.2	2	0.6	6	1.9
Wisconsin													
Eastern	422	227	53.8	73	17.3	15	3.6	97	23.0	2	0.5	8	1.9
Western	215	189	87.9	8	3.7	3	1.4	13	6.0	0	0.0	2	0.9
EIGHTH CIRCUIT	5,485	3,538	64.5	1,013	18.5	183	3.3	647	11.8	18	0.3	86	1.6
Arkansas													
Eastern	293	198	67.6	43	14.7	9	3.1	37	12.6	3	1.0	3	1.0
Western	231	159	68.8	54	23.4	4	1.7	13	5.6	0	0.0	1	0.4
Iowa													
Northern	399	278	69.7	58	14.5	6	1.5	37	9.3	3	0.8	17	4.3
Southern	361	169	46.8	82	22.7	9	2.5	93	25.8	0	0.0	8	2.2
Minnesota	625	323	51.7	127	20.3	36	5.8	136	21.8	0	0.0	3	0.5
Missouri													
Eastern	1,068	718	67.2	198	18.5	41	3.8	99	9.3	1	0.1	11	1.0
Western	867	566	65.3	169	19.5	11	1.3	104	12.0	0	0.0	17	2.0
Nebraska	906	594	65.6	190	21.0	47	5.2	67	7.4	0	0.0	8	0.9
North Dakota	265	185	69.8	61	23.0	6	2.3	11	4.2	1	0.4	1	0.4
South Dakota	470	348	74.0	31	6.6	14	3.0	50	10.6	10	2.1	17	3.6

CIRCUIT	TOTAL	GOVERNMENT											
		SENTENCED WITHIN GUIDELINE RANGE		SPONSORED BELOW THE GUIDELINE RANGE		DEPARTURES BELOW THE GUIDELINE RANGE		OTHERWISE BELOW THE GUIDELINE RANGE		DEPARTURES ABOVE THE GUIDELINE RANGE		OTHERWISE ABOVE THE GUIDELINE RANGE	
District			%		%		%		%		%		%
NINTH CIRCUIT	13,303	6,337	47.6	5,139	38.6	462	3.5	1,146	8.6	67	0.5	152	1.1
Alaska	211	122	57.8	39	18.5	3	1.4	43	20.4	0	0.0	4	1.9
Arizona	4,284	1,212	28.3	2,701	63.0	119	2.8	158	3.7	46	1.1	48	1.1
California													
Central	1,046	817	78.1	80	7.6	37	3.5	108	10.3	0	0.0	4	0.4
Eastern	971	518	53.3	347	35.7	27	2.8	69	7.1	3	0.3	7	0.7
Northern	691	418	60.5	145	21.0	29	4.2	88	12.7	1	0.1	10	1.4
Southern	2,460	1,297	52.7	867	35.2	124	5.0	158	6.4	4	0.2	10	0.4
Guam	133	71	53.4	48	36.1	5	3.8	9	6.8	0	0.0	0	0.0
Hawaii	523	254	48.6	163	31.2	22	4.2	74	14.1	0	0.0	10	1.9
Idaho	264	101	38.3	124	47.0	11	4.2	24	9.1	1	0.4	3	1.1
Montana	405	307	75.8	48	11.9	10	2.5	21	5.2	4	1.0	15	3.7
Nevada	473	338	71.5	64	13.5	10	2.1	50	10.6	1	0.2	10	2.1
Northern Mariana Islands	25	18	72.0	6	24.0	0	0.0	0	0.0	0	0.0	1	4.0
Oregon	575	309	53.7	131	22.8	23	4.0	103	17.9	2	0.3	7	1.2
Washington													
Eastern	402	237	59.0	80	19.9	10	2.5	62	15.4	3	0.7	10	2.5
Western	840	318	37.9	296	35.2	32	3.8	179	21.3	2	0.2	13	1.5
TENTH CIRCUIT	6,122	3,979	65.0	1,453	23.7	189	3.1	437	7.1	7	0.1	57	0.9
Colorado	725	381	52.6	217	29.9	42	5.8	75	10.3	2	0.3	8	1.1
Kansas	706	456	64.6	149	21.1	15	2.1	71	10.1	2	0.3	13	1.8
New Mexico	2,862	1,806	63.1	859	30.0	64	2.2	122	4.3	1	0.0	10	0.3
Oklahoma													
Eastern	108	94	87.0	11	10.2	2	1.9	1	0.9	0	0.0	0	0.0
Northern	229	187	81.7	27	11.8	1	0.4	9	3.9	1	0.4	4	1.7
Western	243	173	71.2	20	8.2	8	3.3	30	12.3	0	0.0	12	4.9
Utah	1,014	730	72.0	112	11.0	51	5.0	113	11.1	1	0.1	7	0.7
Wyoming	235	152	64.7	58	24.7	6	2.6	16	6.8	0	0.0	3	1.3
ELEVENTH CIRCUIT	7,044	4,843	68.8	1,330	18.9	182	2.6	551	7.8	29	0.4	109	1.5
Alabama													
Middle	247	147	59.5	87	35.2	2	0.8	7	2.8	3	1.2	1	0.4
Northern	480	290	60.4	127	26.5	7	1.5	42	8.8	2	0.4	12	2.5
Southern	387	244	63.0	97	25.1	10	2.6	29	7.5	0	0.0	7	1.8
Florida													
Middle	1,819	1,173	64.5	438	24.1	58	3.2	126	6.9	2	0.1	22	1.2
Northern	366	253	69.1	80	21.9	4	1.1	18	4.9	3	0.8	8	2.2
Southern	2,240	1,724	77.0	241	10.8	50	2.2	201	9.0	8	0.4	16	0.7
Georgia													
Middle	411	287	69.8	85	20.7	1	0.2	28	6.8	1	0.2	9	2.2
Northern	771	503	65.2	133	17.3	35	4.5	84	10.9	5	0.6	11	1.4
Southern	323	222	68.7	42	13.0	15	4.6	16	5.0	5	1.5	23	7.1

¹Of the 76,867 cases, 144 cases with no analogous guidelines were excluded from the table. Of the remaining 76,723 cases, 2,622 were excluded due to missing departure or variance information.

Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extracted March 16, 2006; table prepared March 30, 2006). Summary numbers may not add up to their component parts due to rounding

**SUBSTANTIAL ASSISTANCE CASES: DEGREE OF DEPARTURE
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on March 16, 2006

PRIMARY OFFENSE	n	Median Sentence in Months ²	DEGREE OF DECREASE FOR SUBSTANTIAL ASSISTANCE	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	10,286	36.0	28.3	49.0
Murder	10	126.0	180.0	69.3
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	5	121.0	127.0	48.5
Sexual Abuse	6	34.5	18.5	35.4
Assault	12	45.0	19.0	27.1
Robbery	177	54.0	31.0	35.4
Arson	11	38.0	24.0	48.1
Drugs - Trafficking	6,614	50.0	39.0	45.2
Drugs - Communication Facility	75	6.0	18.0	83.3
Drugs - Simple Possession	10	25.3	10.0	40.7
Firearms	902	36.0	24.0	46.8
Burglary/B&E	1	--	--	--
Auto Theft	14	22.5	18.0	43.5
Larceny	127	6.0	10.0	60.9
Fraud	1,009	3.0	12.0	89.6
Embezzlement	17	0.0	12.0	100.0
Forgery/Counterfeiting	96	4.0	9.0	82.9
Bribery	62	6.0	15.0	74.4
Tax	90	0.0	10.0	100.0
Money Laundering	238	12.0	23.0	63.4
Racketeering/Extortion	158	28.5	30.0	51.4
Gambling/Lottery	17	0.0	8.0	100.0
Civil Rights	9	15.0	12.0	40.7
Immigration	327	10.0	9.0	48.3
Pornography/Prostitution	56	42.5	26.0	34.7
Prison Offenses	10	2.5	5.0	60.4
Administration of Justice Offenses	139	0.0	12.0	100.0
Environmental/Wildlife	14	0.0	11.0	100.0
National Defense	6	8.5	18.0	80.9
Antitrust	11	5.0	10.0	66.7
Food & Drug	6	0.0	12.0	99.9
Other Miscellaneous Offenses	57	3.0	14.0	83.3

¹Of the 76,867 cases, 10,778 received a substantial assistance departure. Of these, 10,355 had complete guideline application information. An additional 43 cases were excluded due to several logical criteria. Of the remaining 10,312 cases, 26 were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (26).

²Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**GOVERNMENT SPONSORED DOWNWARD DEPARTURE CASES: DEGREE OF
DEPARTURE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**
Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on March 16, 2006

PRIMARY OFFENSE	n	Median Sentence in Months ²	DEGREE OF DECREASE FOR GOVERNMENT SPONSORED DOWNWARD DEPARTURE ³	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	6,733	24.0	9.0	27.8
Murder	3	57.0	40.0	41.0
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	3	48.0	15.0	23.8
Sexual Abuse	30	60.0	19.0	35.6
Assault	37	19.9	12.0	40.5
Robbery	29	57.0	25.0	31.4
Arson	2	--	--	--
Drugs - Trafficking	1,774	24.0	10.0	33.3
Drugs - Communication Facility	10	11.6	29.4	71.7
Drugs - Simple Possession	1	--	--	--
Firearms	238	30.5	12.0	26.2
Burglary/B&E	1	--	--	--
Auto Theft	1	--	--	--
Larceny	33	0.0	10.0	99.8
Fraud	127	5.0	10.0	60.8
Embezzlement	9	0.0	10.0	99.3
Forgery/Counterfeiting	22	6.4	9.5	49.0
Bribery	8	5.0	9.5	65.8
Tax	15	5.0	10.0	58.3
Money Laundering	34	14.0	6.2	50.0
Racketeering/Extortion	38	38.5	9.0	20.0
Gambling/Lottery	5	0.0	10.0	100.0
Civil Rights	0	--	--	--
Immigration	4,179	24.0	7.0	25.0
Pornography/Prostitution	40	43.0	18.5	21.5
Prison Offenses	9	12.0	6.0	41.7
Administration of Justice Offenses	42	10.0	12.5	61.4
Environmental/Wildlife	4	5.0	7.5	58.3
National Defense	4	24.0	22.0	56.6
Antitrust	0	--	--	--
Food & Drug	3	16.0	12.0	23.3
Other Miscellaneous Offenses	32	0.0	12.0	100.0

¹Of the 76,867 cases, 7,083 received a government sponsored downward departure. Of these, 6,799 had complete guideline application information. An additional 49 cases were excluded due to several logical criteria. Of the remaining 6,750 cases, 17 were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (17).

²Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**OTHER DOWNWARD DEPARTURE CASES: DEGREE OF DEPARTURE
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on March 16, 2006

PRIMARY OFFENSE	n	Median Sentence in Months ²	DEGREE OF DECREASE FOR OTHER DOWNWARD DEPARTURE ³	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	2,247	22.1	12.0	34.3
Murder	3	70.0	27.0	27.8
Manslaughter	4	24.0	11.0	26.8
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	9	18.0	9.0	19.6
Assault	33	12.0	12.0	50.0
Robbery	69	48.0	18.0	21.6
Arson	1	--	--	--
Drugs - Trafficking	748	60.0	17.5	27.6
Drugs - Communication Facility	11	18.0	10.0	37.5
Drugs - Simple Possession	4	36.0	23.0	48.0
Firearms	304	22.5	12.0	34.8
Burglary/B&E	1	--	--	--
Auto Theft	1	--	--	--
Larceny	54	0.0	8.0	100.0
Fraud	228	1.0	10.0	90.3
Embezzlement	19	3.9	9.0	73.9
Forgery/Counterfeiting	26	2.3	10.0	90.9
Bribery	4	0.0	7.0	100.0
Tax	44	0.0	10.0	100.0
Money Laundering	33	16.0	10.0	44.4
Racketeering/Extortion	20	24.0	12.0	42.5
Gambling/Lottery	2	--	--	--
Civil Rights	2	--	--	--
Immigration	469	24.0	8.0	26.8
Pornography/Prostitution	57	18.0	22.0	48.1
Prison Offenses	8	21.0	5.0	22.4
Administration of Justice Offenses	54	0.1	10.0	99.4
Environmental/Wildlife	4	0.0	12.0	100.0
National Defense	2	--	--	--
Antitrust	1	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	32	1.0	10.0	90.0

¹Of the 76,867 cases, 2,399 received an other downward departure. Of these, 2,253 had complete guideline application information. An additional two cases were excluded due to several logical criteria. Of the remaining 2,251 cases, four were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (4).

²Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**OTHERWISE BELOW GUIDELINE RANGE CASES: DEGREE OF VARIANCE
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on March 16, 2006

PRIMARY OFFENSE	n	Median Sentence in Months ²	DEGREE OF DECREASE FOR OTHERWISE BELOW GUIDELINE RANGE ³	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	6,396	24.3	12.0	34.2
Murder	10	108.5	25.0	20.5
Manslaughter	3	20.0	10.0	33.3
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	35	34.0	18.0	37.4
Assault	57	12.0	9.0	42.9
Robbery	145	51.0	15.0	20.5
Arson	2	--	--	--
Drugs - Trafficking	2,298	60.0	19.0	26.8
Drugs - Communication Facility	54	13.0	12.0	39.6
Drugs - Simple Possession	17	5.8	10.0	59.5
Firearms	901	30.0	12.0	28.6
Burglary/B&E	7	6.0	6.0	52.4
Auto Theft	6	30.0	7.0	28.2
Larceny	156	0.0	6.0	100.0
Fraud	752	5.0	9.0	67.5
Embezzlement	72	0.0	8.0	99.6
Forgery/Counterfeiting	106	2.9	8.0	77.7
Bribery	27	0.0	10.0	100.0
Tax	139	1.0	10.0	91.9
Money Laundering	137	15.0	12.0	51.4
Racketeering/Extortion	60	45.0	15.0	33.3
Gambling/Lottery	11	0.0	6.0	100.0
Civil Rights	9	28.0	14.5	41.4
Immigration	964	20.0	9.0	33.2
Pornography/Prostitution	189	30.0	17.0	36.8
Prison Offenses	23	12.0	8.0	41.2
Administration of Justice Offenses	105	6.0	10.0	66.1
Environmental/Wildlife	19	0.0	6.0	100.0
National Defense	6	25.5	20.5	36.8
Antitrust	0	--	--	--
Food & Drug	3	5.0	7.0	58.3
Other Miscellaneous Offenses	82	0.0	10.0	100.0

¹Of the 76,867 cases, 6,929 were otherwise below the guideline range and did not cite reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual. Of these, 6,424 had complete guideline application information. An additional 12 cases were excluded due to several logical criteria. Of the remaining 6,412 cases, 16 were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (16).

²Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**UPWARD DEPARTURE CASES: DEGREE OF DEPARTURE
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on March 16, 2006

PRIMARY OFFENSE	n	Median Sentence in Months ²	DEGREE OF INCREASE FOR UPWARD DEPARTURE ³	
			Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	210	60.0	14.0	33.3
Murder	4	234.0	106.0	65.5
Manslaughter	4	96.0	18.0	23.1
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	5	220.0	32.0	37.8
Assault	10	95.0	31.0	70.9
Robbery	8	175.5	34.0	30.9
Arson	0	--	--	--
Drugs - Trafficking	19	36.0	6.0	22.2
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	2	--	--	--
Firearms	42	96.0	23.5	26.9
Burglary/B&E	1	--	--	--
Auto Theft	0	--	--	--
Larceny	2	--	--	--
Fraud	26	54.0	14.0	48.7
Embezzlement	0	--	--	--
Forgery/Counterfeiting	4	48.0	22.0	120.8
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	3	120.0	57.0	90.5
Racketeering/Extortion	1	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	53	21.0	6.0	25.0
Pornography/Prostitution	14	150.0	56.0	61.7
Prison Offenses	1	--	--	--
Administration of Justice Offenses	8	36.0	6.0	50.0
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	1	--	--	--
Other Miscellaneous Offenses	2	--	--	--

¹Of the 76,867 cases, 221 received an upward departure. Of these, 213 had complete guideline application information. An additional one cases were excluded due to several logical criteria. Of the remaining 212 cases, two were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (2).

²Cases with guideline maximums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**OTHERWISE ABOVE GUIDELINE RANGE CASES: DEGREE OF VARIANCE
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on March 16, 2006

PRIMARY OFFENSE	n	Median Sentence in Months ²	DEGREE OF INCREASE FOR OTHERWISE ABOVE GUIDELINE RANGE ³	
			Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	888	60.0	14.0	38.5
Murder	7	240.0	40.0	21.3
Manslaughter	5	41.0	8.0	24.2
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	20	184.0	38.0	41.3
Assault	29	60.0	27.0	46.3
Robbery	20	174.0	33.5	31.0
Arson	3	84.0	13.0	50.0
Drugs - Trafficking	121	80.0	18.0	33.3
Drugs - Communication Facility	4	29.1	2.1	21.0
Drugs - Simple Possession	15	24.0	12.0	100.0
Firearms	159	72.0	17.0	33.3
Burglary/B&E	2	--	--	--
Auto Theft	5	36.0	18.0	90.5
Larceny	38	30.0	10.5	64.4
Fraud	149	46.0	10.0	33.3
Embezzlement	3	36.0	12.0	46.3
Forgery/Counterfeiting	18	58.5	14.5	74.2
Bribery	0	--	--	--
Tax	7	36.0	9.0	33.3
Money Laundering	13	108.0	20.0	38.7
Racketeering/Extortion	18	81.0	17.0	27.4
Gambling/Lottery	0	--	--	--
Civil Rights	1	--	--	--
Immigration	163	30.0	7.0	37.0
Pornography/Prostitution	45	120.0	33.0	40.0
Prison Offenses	8	42.5	7.5	28.8
Administration of Justice Offenses	21	27.0	10.0	50.0
Environmental/Wildlife	1	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	13	24.0	11.0	50.0

¹Of the 76,867 cases, 1,006 were otherwise below the guideline range and did not cite reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual. Of these, 919 had complete guideline application information. An additional 30 cases were excluded due to several logical criteria. Of the remaining 889 cases, one were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (1).

²Cases with guideline maximums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.